

GROUNDWATER RIGHTS AND MANAGEMENT

OVERVIEW

Although the State of California administers rights to surface water in the State, it does not have a Statewide program for managing groundwater use. Groundwater rights are not appropriative like surface water rights, and there is no seniority in groundwater use or entitlement, except by virtue of overlying land ownership. Groundwater management in the State is a quickly evolving field, and pending legislation and court rulings will continue to define groundwater rights in the State.

Local management of groundwater and consistency in policymaking are complicated by several factors, including the following:

- In most groundwater basins, more than one agency asserts some authority over groundwater management; the statutory authority may differ among agencies.
- Although many local water agencies are similar, their water management programs may be dissimilar because of differences in their political, institutional, legal, and technical environments.
- The objectives of groundwater basin management vary by jurisdiction and region. They include limiting groundwater overdraft, preventing seawater intrusion, controlling land subsidence, and preventing or controlling transfers and sale of groundwater outside the area that overlies the basin.

Currently, groundwater in California is managed under a variety of authorities. The following six methods of groundwater management have evolved over time. These methods apply to all groundwater except groundwater in subterranean streams that flow through “known and definite” channels (which is governed by the [State Water Resources Control Board \[SWRCB\]](#) under the same laws that govern surface waters):

- **Overlying property rights.** Each owner of land overlying a common groundwater supply has a right to reasonable beneficial use of the water from that supply on or in connection with his or her overlying land. The use of each overlying landowner is correlative (i.e., shared) with the rights of all other owners of land overlying the same groundwater supply and with all holders of riparian rights on any surface stream that is in hydraulic continuity with the groundwater source. This mutual right is the only limit set on groundwater use, if the basin is not adjudicated (see [“Adjudication”](#) below).
- **Local agencies.** The California Water Code identifies 23 kinds of districts or local agencies with specific statutory authority to manage surface water, some of which also have statutory authority to impose some forms of groundwater management. Some of these districts and agencies have exercised this authority; others have not.

Various local agencies have implemented conjunctive use programs as a form of groundwater management. This form of management involves operating a groundwater basin in coordination with a surface water storage and conveyance system to maximize water supply reliability.

- **Adjudication.** In some groundwater basins, the groundwater rights of all the owners of land overlying the basin have been determined by the court in response to lawsuits initiated by one or more overlying users. Such determinations are referred to as “adjudication”. The court decides who the extractors are and how much groundwater each can extract and appoints a watermaster to ensure that the basin is managed in accordance with the court’s decree. The SWRCB also may initiate an adjudication of groundwater rights through the courts to protect water quality. There are 16 adjudicated basins in California (see [Figure 14](#)).
- **Groundwater management agencies or districts formed through special legislation.** In some parts of California, special legislation has been enacted to form groundwater management districts or agencies. The legislation allows such districts to enact ordinances to limit or regulate extraction. Nine such agencies existed in California in 1999, and three others have acquired similar authority through amendments to the California Water Code (see [Figure 15](#)).
- **City and county ordinances.** Several counties have adopted ordinances to manage groundwater. They include Butte, Glenn, Imperial, Inyo, Kern, Madera, San Diego, San Joaquin, Shasta, Tehama, and Yolo Counties. (Kern County’s ordinance applies only to that portion of the county east of the Sierra Nevada.) The nature and extent of the power of local jurisdictions to regulate groundwater are uncertain.
- **Assembly Bill (AB) 3030 management plans.** The Groundwater Management Act, commonly called AB 3030, was passed in 1992 to provide local public agencies with increased management authority over groundwater resources. AB 3030 provides broad general authority for local agencies to adopt groundwater management plans and to impose assessments to cover the cost of implementing the plans. Groundwater management plans have been adopted by 149 agencies in accordance with AB 3030. Other agencies have begun the process. The statute does not require agencies that adopt plans to file copies of those plans with the California Department of Water Resources or the SWRCB.

Among the agencies that have adopted groundwater management plans are several that have entered into a joint powers authority, joint powers agreement, memorandum of understanding, cooperative agreement, or some less formal agreement to develop a coordinated groundwater management plan.

WHO NEEDS TO COMPLY?

CALFED actions may be subject to a county ordinance, approval by a local agency or district, or the terms of judicial adjudication if they involve:

- the use, replenishment, transfer, or sale of groundwater;
- the use of a groundwater basin for storage; or
- the construction, abandonment, or destruction of a well.

WHAT DOES THE APPLICATION AND EVALUATION PROCESS ENTAIL?

Local processes and authorities vary widely, and more than one jurisdiction or agency may exercise authority over a groundwater basin. For example, a basin may be the subject of both a groundwater management plan adopted by a water agency and an ordinance adopted by an overlying or adjacent city or county; these may or may not be coordinated. Any applicant proposing a project that involves groundwater rights, groundwater banking, or conjunctive use should consult with an attorney who specializes in water rights and professionals with engineering or hydrogeologic expertise.

DOES THIS PROCESS TRIGGER THE NEED FOR COMPLIANCE WITH OTHER REGULATIONS?

CEQA compliance will probably be required for an action that involves groundwater rights, groundwater banking, or conjunctive use. Coordination with one or more local entities may also be necessary to meet local requirements.

[Go to Next Regulation](#)